

§ 1701.5 Collection and maintenance of records.

(a) ODNI will not maintain a record unless:

(1) It is relevant and necessary to accomplish an ODNI function required by statute or Executive Order;

(2) It is acquired to the greatest extent practicable from the subject individual when ODNI may use the record to make any determination about the individual;

(3) The individual providing the record is informed of the authority for providing the record (including whether providing the record is mandatory or voluntary), the principal purpose for maintaining the record, the routine uses for the record, and what effect refusing to provide the record may have;

(4) It is maintained with such accuracy, relevance, timeliness and completeness as is reasonably necessary to ensure fairness to the individual in the determination;

(b) Except as to disclosures made to an agency or made under the FOIA, ODNI will make reasonable efforts prior to disseminating a record about an individual, to ensure that the record is accurate, relevant, timely, and complete;

(c) ODNI will not maintain or develop a system of records that is not the subject of a current or planned public notice;

(d) ODNI will not adopt a routine use of information in a system without notice and invitation to comment published in the FEDERAL REGISTER at least 30 days prior to final adoption of the routine use;

(e) To the extent ODNI participates with a non-Federal agency in matching activities covered by section (8) of the Act, ODNI will publish notice of the matching program in the FEDERAL REGISTER;

(f) ODNI will not maintain a record which describes how an individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the subject individual, or unless pertinent to and within the scope of an authorized law enforcement activity;

(g) When required by the Act, ODNI will maintain an accounting of all dis-

closures of records by the ODNI to persons, organizations or agencies;

(h) Each ODNI component shall implement administrative, physical and technical controls to prevent unauthorized access to its systems of records, to prevent unauthorized disclosure of records, and to prevent physical damage to or destruction of records;

(i) ODNI will establish rules and instructions for complying with the requirements of the Privacy Act, including notice of the penalties for non-compliance, applicable to all persons involved in the design, development, operation or maintenance of any system of records.

§ 1701.6 Disclosure of records/policy.

Consistent with 5 U.S.C. 552a(b), ODNI will not disclose any record which is contained in a system of records by any means (written, oral or electronic) without the consent of the subject individual unless disclosure without consent is made for reasons permitted under applicable law, including:

(a) Internal agency use on a need-to-know basis;

(b) Release under the Freedom of Information Act (FOIA) if not subject to protection under the FOIA exemptions;

(c) A specific "routine use" as described in the ODNI's published compilation of Routine Uses Applicable to More Than One ODNI System of Records or in specific published Privacy Act Systems of Records Notices (available at <http://www.dni.gov>);

(d) Release to the Bureau of the Census, the National Archives and Records Administration, or the Government Accountability Office, for the performance of those entities' statutory duties;

(e) Release in non-identifiable form to a recipient who has provided written assurance that the record will be used solely for statistical research or reporting;

(f) Compelling circumstances in which the health or safety of an individual is at risk;

(g) Release pursuant to the order of a court of competent jurisdiction or to a governmental entity for a specifically documented civil or criminal law enforcement activity;

§ 1701.7

32 CFR Ch. XVII (7–1–08 Edition)

(h) Release to either House of Congress or to any committee, subcommittee or joint committee thereof to the extent of matter within its jurisdiction;

(i) Release to a consumer reporting agency in accordance with section 3711(e) of Title 31.

§ 1701.7 Requests for notification of and access to records.

(a) *How to request.* Unless records are not subject to access (see paragraph (b) of this section), individuals seeking access to records about themselves may submit a request in writing to the D/IMO, as directed in Sec. 1701.3 of this subpart, or to the contact designated in the specific Privacy Act System of Records Notice. To ensure proper routing and tracking, requesters should mark the envelope “Privacy Act Request.”

(b) *Records not subject to access.* The following records are not subject to review by subject individuals:

(1) Records in ODNI systems of records that ODNI has exempted from access and correction under the Privacy Act, 5 U.S.C. 552a(j) or (k), by notice published in the FEDERAL REGISTER, or where those exemptions require that ODNI can neither confirm nor deny the existence or nonexistence of responsive records (see § 1701.10(c)(iii)).

(2) Records in ODNI systems of records that another agency has exempted from access and correction under the Privacy Act, 5 U.S.C. 552a(j) or (k), by notice published in the FEDERAL REGISTER, or where those exemptions require that ODNI can neither confirm nor deny the existence or nonexistence of responsive records (see § 1701.10(c)(iii)).

(c) *Description of records.* Individuals requesting access to records about themselves should, to the extent possible, describe the nature of the records, why and under what circumstances the requester believes ODNI maintains the records, the time period in which they may have been compiled and, ideally, the name or identifying number of each Privacy Act System of Records in which they might be included. The ODNI publishes notices in the FEDERAL REGISTER that de-

scribe its systems of records. The FEDERAL REGISTER compiles these notices biennially and makes them available in hard copy at large reference libraries and in electronic form at the Government Printing Office’s World Wide Web site, <http://www.gpoaccess.gov>.

(d) *Verification of identity.* A written request for access to records about oneself must include full (legal) name, current address, date and place of birth, and citizenship status. Aliens lawfully admitted for permanent residence must provide their Alien Registration Number and the date that status was acquired. The D/IMO may request additional or clarifying information to ascertain identity. Access requests must be signed and the signature either notarized or submitted under 28 U.S.C. 1746, authorizing statements made under penalty of perjury as a substitute for notarization.

(e) *Verification of guardianship or representational relationship.* The parent or guardian of a minor, the guardian of an individual under judicial disability, or an attorney retained to represent an individual shall provide, in addition to establishing the identity of the minor or individual represented as required in paragraph (d) of this section, evidence of such representation by submitting a certified copy of the minor’s birth certificate, court order, or representational agreement which establishes the relationship and the requester’s identity.

(f) ODNI will permit access to or provide copies of records to individuals other than the record subject (or the subject’s legal representative) only with the requester’s written authorization.

§ 1701.8 Requests to amend or correct records.

(a) *How to request.* Unless the record is not subject to amendment or correction (see paragraph (b) of this section), individuals (or guardians or representatives acting on their behalf) may make a written amendment or correction request to the D/IMO, as directed in § 1701.3 of this subpart, or to the contact designated in a specific Privacy Act System of Records. Requesters seeking amendment or correction should identify the particular record or